

FILED

OCT 17 2007

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ELIZABETH M. ACOSTA,

Plaintiff - Appellant,

v.

**GARY HILL; JOSEPH KROUSS;
ERIC STAFFORD; RAPHAEL
CIMMARUSTI; ELITE SHOW
SERVICES; VLADIMIR
ATABEKIAN; DONALD WILLIAMS;
CITY OF SAN DIEGO,**

Defendants - Appellees.

No. 05-56575

D.C. No. CV-01-01973-LAB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Argued and Submitted July 13, 2007
Pasadena, California

Amended

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Before: **KOZINSKI** and **TALLMAN**, Circuit Judges, and **SANDOVAL**,^{**}
District Judge.

1. Since the officers had probable cause to believe that Acosta violated San Diego Municipal Code § 59.0103(g) (2000), in their presence, they didn't violate her Fourth Amendment rights. See Atwater v. City of Lago Vista, 532 U.S. 318, 354 (2001).

2. Acosta didn't produce sufficient evidence of unlawful intent to survive summary judgement on her retaliation claims, see Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle, 429 U.S. 274, 287 (1977), or her malicious prosecution claims, see Awabdy v. City of Adelanto, 368 F.3d 1062, 1066 (9th Cir. 2004).

3. The district court's clarification of cross-examination questions and refusal to give a "group attack" jury instruction weren't an abuse of discretion.

4. The city's alleged failure to train officers adequately and require fitness standards didn't amount to deliberate indifference. See City of Canton v. Harris, 489 U.S. 378, 388 (1989).

^{**} The Honorable Brian E. Sandoval, United States District Judge for the District of Nevada, sitting by designation.

5. All of Acosta's claims against Elite Show Services, Inc. and the security guards similarly lack merit.

AFFIRMED.